

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for  
Community Planning and  
Development**

**24 CFR Part 585**

[Docket No. R-95-1675; FR-3450-F-02]

RIN 2506-AB52

**Opportunities for Youth: Youthbuild  
Program**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Final rule.

**SUMMARY:** This is the final rule for the Youthbuild Program. The Youthbuild Program provides funding assistance for a wide range of multi-disciplinary activities and services to assist economically disadvantaged young adults. The opportunities are designed to help disadvantaged young adults who have dropped out of high school to obtain the education and employment skills necessary to achieve economic self-sufficiency and develop leadership skills and a commitment to community development in low-income communities. Implementation grant funds can be used to fund eligible educational and supportive services and activities composed of basic skills instruction and remedial education, employment skills and leadership development, and counseling, referral and support services. Planning grant funds can be used to develop a Youthbuild program that includes the activities of an implementation grant.

Another important objective of the Youthbuild program is to expand the supply of permanent affordable housing for homeless persons and members of low- and very low-income families. By giving disadvantaged young adults participating in the program meaningful on-site training experiences constructing or rehabilitating housing as a community service, they are helping to meet the housing needs of homeless and low-income families in their community.

**EFFECTIVE DATE:** March 23, 1995.

**FOR FURTHER INFORMATION CONTACT:** The Office of Economic Development, Department of Housing and Urban Development, Room 7136, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708-2035; TDD (202) 708-1455. (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:**
**I. Information Collection Requirements**

The information collection requirements contained in this rule have been approved under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) by the Office of Management and Budget (OMB) and have been assigned OMB control number 2506-0142; expiration date August 31, 1996.

**II. Background**

Section 164 of the Housing and Community Development Act of 1992 (Pub.L. 102-550) authorized the Youthbuild program under subtitle D of title IV of the National Affordable Housing Act (42 U.S.C. 8011). On September 23, 1993, the Department published a proposed rule (58 FR 49830) and a Notice of Funds Availability (NOFA) (58 FR 49849) for this program.

The Department is now publishing the final rule to be effective 30 days from the date of publication. This final rule does not contain the detailed selection criteria and application processing steps contained in the NOFA for Fiscal Year 1993. Information appropriate for a specific funding competition will now be contained in the NOFA published for the current competition and will not be part of the final rule. The final rule published here is presented in its entirety to reflect the addition of section numbers and all modifications made as a result of public comments and as a result of the Department's experience in running the first competition for Youthbuild grant fund.

**III. Discussion of Public Comments on  
Proposed Rule**

The Department received public comments from seven organizations (one state agency, one local government agency, two housing authorities and three nonprofit organizations) in response to the proposed rule published on September 23, 1993, at 58 FR 49830. The following discussion summarizes the comments and provides HUD's responses to those comments.

*Comment:* Participant eligibility should be extended to include juvenile offenders held in custody at state-operated training facilities. These juveniles meet the qualifications of economically disadvantaged young adults who have dropped out of high school and are in need of assistance to obtain education and employment skills. [one state agency]

*Response:* Such juvenile offenders would be eligible for a Youthbuild

program without any changes to the regulations.

*Comment:* The paragraph entitled "Lease" included in the provisions on tenant protections under "Project-related restrictions applicable to Youthbuild residential rental housing" [§ 585.309 (b)(1)] calls for a model lease to become an addendum to the grant agreement, remaining in force for ten years. Housing authorities and other owners may have to make changes in lease provisions as required by HUD and state statutes. Provisions must be made to amend leases. [one housing authority]

*Response:* For grants covered by the requirements of section 585.309(b)(1), if the provisions of the model lease change, such changes will require approval by HUD. No change to the regulations is needed.

*Comment:* There is a conflict between § 585.309(b)(2) and 24 CFR 966.4(a)(1) and (3) relating to the rules to be followed by a Public Housing Authority for termination of tenancy. [one housing authority]

*Response:* The provisions of 24 CFR part 966 take precedence for public housing authorities.

*Comment:* Does the Youthbuild program require a justification of new construction through market and/or feasibility studies? [one nonprofit organization]

*Response:* No.

*Comment:* Is a mixed use project an eligible Youthbuild activity and, if so, are there specific criteria involved? [one nonprofit organization]

*Response:* Mixed-use projects are eligible as long as the Youthbuild dollars are only used in conjunction with the housing and housing related facilities. See definition of "related facilities" in § 585.4.

*Comment:* Does the Youthbuild program require that one-third of the housing units assisted be accessible to handicapped people? [one nonprofit organization]

*Response:* Youthbuild applicants are required to certify that they will comply with the requirements of Section 504 of the Rehabilitation Act of 1973, which specifies the handicapped accessibility standards for housing created with Federal funds.

*Comment:* Several sources questioned HUD's use of 10 years to define "the remaining useful life" of a Youthbuild assisted property. One commenter thought that 10 years was too long and two thought it was too short. [one housing authority and two nonprofit organizations.]

*Response:* HUD considered a longer period, but found that a 10-year period

was consistent with similar HUD programs. Any Youthbuild recipient organization that wishes to impose longer restrictions on the use of a property could do so on its own.

*Comment:* HUD should not limit tenants with incomes between 60 and 80 percent of the area median income to only one year. This restriction should be removed. [two public housing authorities]

*Response:* HUD agrees that the one year limit may be too restrictive and has raised it to two years in § 585.309(a).

*Comment:* When project-related restrictions apply to Youthbuild residential rental housing, the requirement that units be advertised for low-income people should be reduced from 90-day periods to 60-day periods. [one housing authority]

*Response:* Because the maximum length of time that a tenant with an income between 60 and 80 percent of the area median income is allowed to rent a Youthbuild-assisted building has been raised from one to two years (see above), HUD believes it is necessary to maintain the 90-day requirement to ensure availability to lower-income tenants.

*Comment:* When a recipient has successfully completed the activities of a planning grant, it would be rare for such an investment of time and money to yield no workable program. HUD should guarantee that all planning recipients be awarded an implementation grant in the next funding cycle. [one public housing authority]

*Response:* While HUD agrees that a planning recipient will likely have a viable project at the end of its planning grant term, it may need additional time to be ready to implement a program that is superior to those of other applicants that did not receive planning grants. Further, given the number of planning grants awarded during the first funding round, there are insufficient funds to award implementation grants to each planning grant recipient. Each funding round is statutorily required to be a competition for funds, and fairness dictates that each application for funding be evaluated on its merits, regardless of whether the applicant received a previous planning grant. HUD also believes that the process of planning for a Youthbuild implementation grant is a valuable exercise, whether or not a HUD-funded Youthbuild implementation program is the result.

*Comment:* HUD should not require programs to channel participants into programs leading to a high school diploma or post-secondary education,

because some participants may not be capable of reaching those goals and such expectations may lead them to drop out of the program. [one public housing authority]

*Response:* HUD believes that earning a high school diploma or its equivalent is crucial to achieving self-sufficiency. However, the educational component of the program does not require that participants achieve a high school equivalency, but merely requires recipients to provide services and activities designed to meet the basic education needs of participants. This requirement is sufficiently flexible to allow recipients to provide educational services that are appropriate to their individual participants.

*Comment:* HUD should not require applicants for planning grants to present information on the need for the program, considering that feasibility studies are eligible activities under the planning grant. [one public housing authority]

*Response:* Need, based on distress of the community, is a statutory selection criterion and is fundamentally different from feasibility studies. To present information on the degree of economic distress in a community in response to the Need rating criterion, an applicant must do research on the poverty, unemployment, dropout rate, and other factors currently existing in the community. Feasibility studies are eligible activities under the planning grant. Instead of assessing the current level of economic distress of the community, a feasibility study would focus on the physical environment, housing stock, and the social, human, and financial resources available for a Youthbuild program.

*Comment:* Given that HUD may approve more than the \$1 million maximum if the application proposes to serve a large number of participants, HUD should indicate whether the number of participants is a factor in the rating of an application, and, if so, should specify the average expected number of participants. [one public housing authority]

*Response:* HUD does not have strict participant enrollment requirements but does consider the reasonableness of cost per student in rating program quality and feasibility. HUD also recognizes that costs may vary depending on the location of the program.

*Comment:* HUD should allow program recipients to make stipends high enough to compete with illegal endeavors by participants. [one public housing authority]

*Response:* HUD does not stipulate a stipend level, and leaves the amount up

to the individual applicants.

Unreasonable and excessive stipend levels will be considered in rating program quality and feasibility.

*Comment:* HUD should state in the rule that stipends may not result in a rent increase for program participants. [one public housing authority]

*Response:* The enabling statute and rule state that the Youthbuild program is subject to section 142 of the Job Training Partnership Act. Section 142(b) of the JTPA states that such wages and stipends are not considered as income for any Federal or Federally-assisted program based on need, other than those under the Social Security Act.

*Comment:* HUD should strike the requirement that applicants may not commit or expend State, local or other funds to undertake property acquisition, rehabilitation or construction until a grant agreement is executed by HUD. [one city housing agency]

*Response:* This provision only applies when Youthbuild funds have been requested to acquire, rehabilitate, or newly construct a property. The purpose is to allow HUD to conduct an environmental review on the property, which the statute requires to be done before an application can be approved. Applicants that expend their own or other funds on a proposed property are in jeopardy of using their funds on a property that could potentially be deemed ineligible as a result of the environmental review. If an applicant proposes to fund the acquisition, rehabilitation, or new construction entirely with non-Youthbuild funds, there is no restriction on using those funds before notification of grant award. Section 585.307(a)(3) has been changed to clarify this distinction.

*Comment:* The provision that makes Davis-Bacon prevailing wage rates not applicable to program participants should be expanded to include state and local wage rate restrictions. [one city housing agency]

*Response:* The provision making Davis-Bacon wage rates inapplicable to Youthbuild trainees is required by a specific statutory provision. HUD has no authority to declare State and local wage regulations inapplicable on the basis of an employee's status as a Youthbuild trainee. However, in this final rule, the Department has revised the provision in the proposed rule regarding the need to apply Davis-Bacon prevailing wage rates to Youthbuild trainees where additional Federal assistance is provided. Subsequent to the issuance of the proposed rule, the Department's attention was drawn to a decision of the United States Department of Labor's Wage Appeals Board in the matter of

100 Court Ave. Street Project, Kurtz Building, UDAG Proj. No. B-83-AA-19-0020, Des Moines, Iowa (WAB Case No. 88-9, March 16, 1990). That case concerned a project involving training under the Job Training Partnership Act (JTPA), which excludes trainees from Davis-Bacon requirements, as well as assistance under the Urban Development Action Grant (UDAG) program, which has its own Davis-Bacon provisions. The Wage Appeals Board determined that JTPA's statutory Davis-Bacon exclusion for trainees applied to exclude a JTPA trainee from Davis-Bacon rate requirements even where the trainee was employed on the UDAG project. Since the Housing and Community Development Act of 1992 applies the JTPA Davis-Bacon provision (and its exclusion of trainees from Davis-Bacon rates) to the Youthbuild program, the Department has concluded that the Wage Appeals Board's ruling is applicable to the Youthbuild program. Accordingly, the final rule provides that Davis-Bacon wage rates are not applicable to Youthbuild trainees, regardless of whether other Federal assistance is involved. However, neither the JTPA provision nor the Wage Appeals Board decision excludes trainees from wage rates other than Davis-Bacon wage rates. Therefore, the rule notes that Youthbuild trainees must be paid HUD-determined wage rates on public and Indian housing work where those rates would be applicable to trainees under the United States Housing Act of 1937 (e.g., on work such as "non-routine maintenance"). However, where HUD wage rates are applicable to trainees, the rates determined by HUD to apply to Youthbuild trainees will be trainee wage rates rather than journeyman rates.

*Comment:* Limitations on profit imposed on housing should not apply to projects which are owned by governmental agencies. [one city housing agency]

*Response:* This is a statutory restriction, that has been interpreted to apply only when construction is financed, in whole or in part, with Youthbuild funds. (See § 585.309)

*Comment:* The rule should include all of the essential purposes of the program that were stated in the legislation. [one nonprofit organization]

*Response:* The purpose of the Youthbuild program in § 585.2 has been revised accordingly.

*Comment:* HUD should state that construction site supervisors essential for the training of the participants are not considered construction or rehabilitation costs. [one nonprofit organization]

*Response:* Section 585.306 has been added to make that clarification.

*Comment:* Related facilities which stand alone should be considered appropriate construction sites for trainees. [one nonprofit organization]

*Response:* HUD construes the term "housing and related facilities" to mean residential property, which does not include stand-alone facilities that do not include housing.

*Comment:* The definition of the term "self-sufficiency" should be providing for oneself and one's immediate "dependents," not "family." [one nonprofit organization]

*Response:* The definition of "self-sufficiency" has been deleted from the final rule.

*Comment:* In the list of "Other activities" as delineated in the discussion of program components, "short-term placement with private contractors as internships to enhance the participant's preparation for unsubsidized employment" should be added. [one nonprofit organization]

*Response:* The list of "other activities" is not exclusive, and a variety of other activities can be done under this heading.

*Comment:* The Corporation for National and Community Service should be added to the list of other Federal entities from which applicants are encouraged to enlist support. [one nonprofit organization]

*Response:* The list of potential resources in § 585.105 comes from the statute, and is not intended to be a comprehensive list or limitation of all possible resources that can be used in the program.

*Comment:* The requirements for the Performance Evaluation Report and Quarterly Progress Report should include additional information. [one nonprofit organization]

*Response:* All specific reporting elements of the required reports have been deleted from the Rule and are now contained in Youthbuild Program Reports (HUD-40201).

*Comment:* Additional points should be given for counseling and leadership development services; the points for housing resources and the housing priority points seem excessive; the requirements for public support are not realistic. [one nonprofit organization]

*Response:* The rule has been amended to state only the statutory rating criteria. The point awards and subcategories of statutory and administratively imposed criteria will be announced for each competition in the NOFA for that fiscal year.

*Comment:* The discussion of Geographic Diversity provides that

lower ranked applications will be selected if any of the 10 HUD Regions receive substantially fewer awards; this language does not reflect the differences in need and interest between the HUD regions. [one nonprofit organization]

*Response:* HUD regions have been abolished under the Department's recent reorganization. HUD reserves the right to invoke this provision to ensure fairness and meet the needs of distressed communities.

#### Other Matters

a. *Environmental Impact.* A Finding of No Significant Impact with respect to the environment for this rule has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

b. *Regulatory Flexibility Act.* The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities because the Youthbuild program affects primarily economically disadvantaged young adults by providing assistance for a wide range of multi-disciplinary activities to assist those young adults. The opportunities are designed to help disadvantaged young adults who have dropped out of high school to obtain the education and employment skills necessary to achieve economic self-sufficiency and develop leadership skills and a commitment to community development in low-income communities. A related objective of the program is to add to the supply of permanent affordable housing for homeless persons and members of low- and very low-income families by giving young adults participating in the program meaningful on-site training experiences in construction and rehabilitation of housing. It is anticipated that fewer than 120 projects will receive assistance under this program.

c. *Executive Order 12612, Federalism.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule does not have "federalism implications" because it

does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

d. *Executive Order 12606, the Family.* The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that some of the policies of this rule would have a potential significant impact on family formation, maintenance, and general well-being. The expected expansion of the housing supply for homeless and low- and very-low income persons and the provision of opportunities to economically disadvantaged young adults to enhance their education and employment skills will provide a positive impact on the family maintenance and general well-being. However since the impact on the family is beneficial and the rule involves very little HUD discretion, no further review is necessary.

e. *Semi-Annual Agenda of Regulations.* This rule was listed as item number 1843 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57663) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

f. *Catalog of Federal Domestic Assistance.* The Catalog of Federal Domestic Assistance Program number assigned to this program is 14.243.

#### List of Subjects in 24 CFR Part 585

Grant programs—housing and community development, Homeless, Low- and very low-income families, Reporting and record keeping requirements.

Accordingly, Subchapter C of Chapter V of Title 24 of the Code of Federal Regulations is amended to add a new part 585, consisting of subparts A through F, to read as follows:

### PART 585—YOUTHBUILD PROGRAM

#### Subpart A—General

Sec.

- 585.1 Authority.
- 585.2 Program purpose.
- 585.3 Program components.
- 585.4 Definitions.

#### Subpart B—Application and Grant Award Process

- 585.100 Notice of funds availability.
- 585.101 Emergency funds.
- 585.102 Application requirements.
- 585.103 Combined planning and implementation applications.
- 585.104 Selection criteria.
- 585.105 Support of other Federal, State, local or private entities.
- 585.106 Selection process.

585.107 Prohibition of disclosure.

#### Subpart C—Youthbuild Planning Grants

- 585.201 Purpose.
- 585.202 Award limits.
- 585.203 Grant term.
- 585.204 Locational considerations.
- 585.205 Eligible activities.

#### Subpart D—Youthbuild Implementation Grants

- 585.301 Purpose.
- 585.302 Award limits.
- 585.303 Grant term.
- 585.304 Locational considerations.
- 585.305 Eligible activities.
- 585.306 Designation of costs.
- 585.307 Environmental procedures and standards.
- 585.308 Relocation assistance and real property acquisition.
- 585.309 Project-related restrictions applicable to Youthbuild residential rental housing.
- 585.310 Project-related restrictions applicable to Youthbuild transitional housing for the homeless.
- 585.311 Project-related restrictions applicable to Youthbuild homeownership housing.
- 585.312 Wages, labor standards, and nondiscrimination.
- 585.313 Labor standards.

#### Subpart E—Administration

- 585.401 Recordkeeping by recipients.
- 585.402 Grant agreement.
- 585.403 Reporting requirements.
- 585.404 Program changes.
- 585.405 Obligation and deobligation of funds.
- 585.406 Primarily religious organizations.

#### Subpart F—Applicability of Other Federal Requirements

- 585.501 Application of OMB Circulars.
- 585.502 Certifications.
- 585.503 Conflict of interest.
- 585.504 Use of debarred, suspended, or ineligible contractors.

**Authority:** 42 U.S.C. 3535(d) and 8011.

#### Subpart A—General

##### § 585.1 Authority.

(a) *General.* The Youthbuild program is authorized under subtitle D of title IV of the National Affordable Housing Act (42 U.S.C. 8011), as added by section 164 of the Housing and Community Development Act of 1992 (Pub. L. 102–550).

(b) *Authority restriction.* No provision of the Youthbuild program may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials used by any

educational institution or school system participating in a Youthbuild program.

##### § 585.2 Program purpose.

The purposes of the Youthbuild program are:

(a) To provide economically disadvantaged young adults with opportunities to obtain education, employment skills and meaningful on-site work experience as a service to their communities and a means to achieve self-sufficiency;

(b) To foster the development of leadership skills and commitment to community; and

(c) To expand the supply of permanent affordable housing for homeless and low- and very low-income persons by providing planning grants for program design and implementation grants for carrying out a Youthbuild Program.

##### § 585.3 Program components.

A Youthbuild implementation program uses comprehensive and multi-disciplinary approaches designed to prepare young adults who have dropped out of high school for educational and employment opportunities by employing them as construction trainees on work sites for housing designated for homeless persons and low- and very low-income families. A Youthbuild planning grant is designed to give recipients sufficient time and financial resources to develop a comprehensive Youthbuild program that can be effectively implemented. Youthbuild programs must contain the three components described in paragraphs (a), (b) and (d) of this section. Other activities described in paragraph (c) of this section are optional:

(a) *Educational Services*, including:

(1) Services and activities designed to meet the basic educational needs of participants. For example, a Youthbuild program may include basic skills instruction and remedial education, bilingual education for individuals with limited English proficiency, secondary educational services and activities designed to lead to the attainment of a high school diploma or its equivalency (GED), or counseling and assistance in attaining post-secondary education and required financial aid;

(2) Vocational classroom courses geared to construction terminology and concepts; and

(3) Strategies to coordinate with local trade unions and apprenticeship programs where possible.

(b) *Leadership Training, Counseling and Other Support Activities*, including:

(1) Activities designed to develop employment and leadership skills, including support for youth councils;

(2) Counseling services to assist trainees in personal, health, housing, child care, family or legal problems and/or referral services to appropriate social service resources;

(3) Support services and stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through continued support services;

(4) Job development and placement activities and post-graduation follow-up assistance; and

(5) Pre-employment training plan aimed at developing job seeking skills.

(c) *Other activities.* A local program may be designed to include other, special activities such as:

(1) Entrepreneurial training and courses in small business development;

(2) Assistance to correct learning disabilities; or

(3) Drivers' education courses.

(d) *On-site training*, through actual housing rehabilitation and/or construction work. This component must include:

(1) Access to housing sites where construction/ rehabilitation work is being carried out;

(2) Work site training plan for a closely supervised construction site;

(3) Construction or rehabilitation plan and timetable; and

(4) Approaches to work site safety.

(e) The Youthbuild implementation program must be structured so that 50 percent of each full-time participant's time is spent in educational services and activities [paragraphs (a), (b), and (c) of this section] and 50 percent is spent in on-site training [paragraph (d) of this section]. Youthbuild planning grant applications must contain strategies, plans and approaches to be used during the planning process to ultimately implement these program requirements.

#### § 585.4 Definitions.

As used in this part:

*1937 Act* means the United States Housing Act of 1937.

*1992 Act* means the Housing and Community Development Act of 1992.

*Access to housing* applies to Youthbuild implementation grants required to document that the program has access to the housing project(s) for young adult on-site training, e.g. program participants have permission to work on the housing site.

*Adjusted income* has the meaning given the term "adjusted income" in section 3(b) of the United States Housing Act of 1937.

*Applicable residential rental housing quality standards* shall mean those

standards of the applicable HUD or other Federal, State or local program providing assistance for residential rental housing involved in a Youthbuild implementation grant as used under section 455(a), Youthbuild Program Requirements, of the Act.

*Applicant* means a public or private nonprofit agency, including:

(1) A community-based organization;

(2) An administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

(3) A community action agency;

(4) A State or local housing development agency;

(5) A community development corporation;

(6) A public and/or Indian housing authority and resident management corporations, resident councils and resident organizations;

(7) A State or local youth service or conservation corps; and

(8) Any other entity (including States, units of general local government, and Indian Tribes) eligible to provide education and employment training.

*Combined Youthbuild application* means the submission by an applicant of a single application to HUD for a planning and implementation grant request for one Youthbuild program.

*Community Based Organization* means a private nonprofit organization that:

(1) Maintains, through significant representation on the organization's governing board or otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

(2) Has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

*Consolidated Plan* means the document that is submitted to HUD that serves as the planning documents (comprehensive housing affordability strategy and community development plan) of the jurisdiction and an application for funding under any of the Community Planning and Development formula grant programs which is prepared in accordance with the process described in 24 CFR part 91.

*Full-Time Participation* for program eligible participants is limited to not less than 6 months and not more than 24 months.

*Graduates* are those participants who have completed the full-time education/on-site training components of a Youthbuild program and who are eligible to take advantage of meaningful opportunities in continued education,

in owning their own businesses, in meaningful employment or in other means by which the participant can attain economic self-sufficiency.

*Homeless Act* means the Stewart B. McKinney Homeless Assistance Act, as amended, (42 U.S.C. 11301 et seq.).

*Homeless individual* has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

*Housing development agency* means any agency of a State or local government, or any private nonprofit organization that provides housing for homeless or low-income families.

*Indian Tribe* has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 [42 U.S.C. 5302(a)(17)].

*Individual who has dropped out of high school* means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

*Institution of Higher Education* has the meaning given the term in section 120(a) of the Higher Education Act of 1965.

*JTPA* means the Job Training Partnership Act (P.L. 102-235), as amended.

*Limited-English proficiency* has the meaning given the term in section 7003 of the Bilingual Education Act.

*Low-income Family* has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

*Offender* means any adult or juvenile with a record of arrest or conviction for a criminal offense.

*Participant* means:

(1) An individual who is:

(i) 16 to 24 years of age, inclusive, at time of enrollment;

(ii) A very low-income individual or a member of a very low-income family; and

(iii) An individual who has dropped out of high school.

(2) An exception of not more than 25 percent of all full-time participants is permitted for young adults who do not meet the program's income or educational requirements but who have educational needs despite attainment of a high school diploma or its equivalent.

*Private Nonprofit Organization* means any private nonprofit organization that:

(1) Is organized and exists under Federal, State, local, or tribal law;

(2) Has no part of its earnings inuring to the benefit of any individual, corporation, or other entity;

(3) Has a voluntary board;

(4) Has an accounting system or has designated a fiscal agent in accordance

with requirements established by HUD; and

(5) Practices nondiscrimination in the provision of assistance.

*Project-related restrictions* mean Youthbuild housing restrictions applicable only in cases where a Youthbuild implementation grant is providing assistance to residential rental, transitional or homeownership housing projects for specific costs relating to property acquisition, architectural and engineering fees, construction, rehabilitation, operating costs, or replacement reserves.

*Recipient* means any entity that receives assistance under this part.

*Related facilities* include cafeterias or dining halls, community rooms or buildings, child care centers, appropriate recreation facilities, and other essential service facilities that are physically attached to the housing to be constructed or rehabilitated. Related facilities which stand alone are not appropriate construction sites for trainees.

*Secretary* means the Secretary of Housing and Urban Development.

*State* means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

*Title IV* means title IV of the National Affordable Housing Act, as amended (42 U.S.C. 1437).

*Transitional housing* means a project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

*Useful life* shall mean a period of 10 years upon construction completion and issuance of an occupancy permit applicable to a residential rental, transitional or homeownership property acquired, constructed or rehabilitated (including architectural and engineering fees), or maintained (i.e., operating costs or replacement reserves), in whole or in part, with Youthbuild implementation grant funds (as used in section 455(a), Youthbuild Program Requirements, of the Act).

*Very low-income family* has the meaning given the term in section 3(b)

of the United States Housing Act of 1937.

## Subpart B—Application and Grant Award Process

### § 585.100 Notice of funds availability.

When funds are made available for assistance, HUD will publish a notice of funds availability (NOFA) in the **Federal Register** in accordance with the requirements of 24 CFR part 12. The notice will:

(a) Give the location for obtaining application packages, which will provide the application requirements and specify the application deadline for the competition;

(b) State the amount of funding available and the kind of grants to be funded under the notice;

(c) Describe the factors relative to each selection criteria and the weight or relative importance given to each criteria as they will be applied to the competition announced in the notice; and

(d) Provide other appropriate program information and guidance.

### § 585.101 Emergency funds.

(a) The Secretary may reserve up to five percent of each Fiscal Year's program funds for implementation grants for emergency purposes to respond quickly to vital needs to stimulate the provision of services to disadvantaged young adults and to expand the supply of affordable housing for the homeless and low- and very low-income persons.

(b) Unforeseen emergency needs may result from natural and other disasters including hurricanes, tornadoes, earthquakes, fires, floods, etc. Other unpredictable and sudden circumstances, such as civil disturbances, may affect the provision of services to young adults or result in housing deprivation and increased demand for housing for low-income persons and the homeless. The Secretary will determine whether the emergency is of sufficient severity to warrant use of Youthbuild funds.

(c) The Secretary will establish a separate and expedited process to award funds for emergency purposes. Specific instructions governing the use of these funds may be published by notice in the **Federal Register**, as necessary. If the set-aside funds are not used for emergency purposes by the time that awards for each fiscal year's funds are to be announced, these funds will be made available for the general implementation grant competition for that year.

### § 585.102 Application requirements.

Applications for grants must be submitted in the form prescribed by HUD in the application kit, must meet the requirements of this part, and must be submitted within the time period established by HUD in the NOFA or application kit. HUD reserves the right to reject applications from any applicant with an outstanding obligation to HUD that is in arrears or for which a payment schedule has not been agreed to, or whose response to an audit finding is overdue or unsatisfactory. Applicants should refer to the Youthbuild application package for further instructions.

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### § 585.103 Combined planning and implementation applications.

(a) If permitted in the NOFA, applicants may apply for both types of grants using one application. In such competitions, the application package will provide instructions on submitting a combined Youthbuild application. Combined planning and implementation grant applications will compete separately during the competition, based on the criteria defined in the NOFA. In such cases, an implementation grant request will be disqualified from the implementation grant competition if its companion planning grant request is not selected for the planning grant competition. However, any implementation grant request failing to be selected under the implementation grant competition will not cause its companion planning grant application to be disqualified from the planning grant competition provided the planning grant qualifies and HUD has determined that the activities proposed in the planning grant request stand alone and are not contingent upon activities proposed in the implementation grant request.

(b) When both parts of a combined application are approved, the receipt of the implementation grant award is conditioned upon the successful completion of the eligible activities funded by the planning grant and submission of the recipient's plan and performance evaluation report to HUD for approval. Upon HUD approval, reserved implementation grant funds would be released to the recipient in accordance with the grant agreement.

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### § 585.104 Selection criteria.

HUD will review applications and assign rating scores based upon the following criteria, which will be

described in more detail in the notice published in the **Federal Register** for each funding competition:

- (a) Capability.
- (b) Need.
- (c) Program quality and feasibility.
- (d) Program resources.
- (e) Housing program priority points (Implementation only).
- (f) *Other factors*: HUD may use additional factors to rate an application as defined in the NOFA for an individual competition.

**§ 585.105 Support of other Federal, State, local or private entities.**

Applicants are encouraged to use existing housing programs administered by HUD or other Federal, State, local or private housing programs as part of their Youthbuild programs. Use of other Federal, State, local or private funds for vocational, adult and bilingual education programs or for job training under the JTPA Act and the Family Support Act of 1988 is also encouraged. The selection process for Youthbuild grants described in a NOFA provides for applicants to receive points where grant applications contain evidence of proposed plans to finance, in whole or in part, Youthbuild activities from other Federal, State, local, or private sources.

**§ 585.106 Selection process.**

(a) *Clarification of Application Information*: Procedures for clarifying application information or curing deficiencies in technical information that does not affect an applications's score will be explained in the notice of funds availability. For implementation applications such deficiencies include, but are not limited to:

- (1) Failure to structure the proposed Youthbuild program so that fifty percent of the time spent by program participants is devoted to educational services and activities and fifty percent to on-site training;
- (2) Failure to target the outreach and recruitment efforts to be used by the program to disadvantaged young adults between the ages of 16 and 24 years;
- (3) Failure to identify the housing to be used for the on-site training;
- (4) Incomplete documentation showing that the applicant has obtained access to the housing site(s) if the applicant does not own the site(s).
- (5) Failure to designate the housing to be produced in conjunction with the program for the use of the homeless and low- and very low-income families.

(b) *Potential environmental disqualification*: HUD reserves the right to disqualify an implementation application where one or more environmental thresholds are exceeded

and it is determined that the environmental review cannot be conducted and satisfactorily completed by HUD within the HUD review period. (Refer to § 585.307, Environmental procedures and standards, for further information.)

(c) *Selecting applicants*. HUD will rank applications according to total points assigned. Applications will be selected for funding from the rank order. However, HUD reserves the right to select lower rated applications if necessary to achieve geographic diversity.

(d) *Breaking tie scores*. The NOFA for the funding round will indicate which selection criteria will be used to break a tie if two or more applications receive the same number of points and sufficient funds are not available to fund all such applications.

(e) *Reduction in requested grant amount*. HUD will approve an application for an amount lower than the amount requested or adjust line items in the proposed budget within the amount requested (or both) if it determines that:

- (1) The amount requested for one or more eligible activities is not supported in the application or is unreasonable related to the service or activity proposed for the population to be served or the housing to be provided;
- (2) An activity proposed for funding does not qualify as an eligible activity;
- (3) The amount requested exceeds the cost limitation established for a Youthbuild grant; or
- (4) There are insufficient funds remaining to fund the applicant's original grant request.

(f) *Notification of approval or disapproval*. After completion of the ranking and selection of applications, but no later than four months after the date applications are due under the applicable NOFA, HUD will notify the selected applicants and the applicants that have not been selected. HUD's notification to the applicant of the grant award amount, based on the approved application, will constitute a preliminary approval by HUD, subject to HUD and recipient execution of a grant agreement to initiate program activities.

**§ 585.107 Prohibition of disclosure.**

The selection process for assistance under this part is subject to the prohibition of disclosure of covered information regarding the selection process, as described in 24 CFR part 4. Applicants for or recipients of assistance who have received covered selection information may be subject to appropriate sanctions.

**Subpart C—Youthbuild Planning Grants.**

**§ 585.201 Purpose.**

HUD will award Youthbuild planning grants to eligible applicants for the purpose of developing Youthbuild programs in accordance with subtitle D of title IV of the National Affordable Housing Act. Applications will be selected in a national competition in accordance with the selection process described in the current NOFA.

**§ 585.202 Award limits.**

*Maximum awards*. The maximum amount of a Youthbuild planning grant is \$150,000 unless a lower amount is established in the NOFA. HUD may for good cause approve a grant in a higher amount.

**§ 585.203 Grant term.**

Funds awarded for planning grants are expected to be used within 12 months of the effective date of the planning grant agreement. The award of a Youthbuild planning grant does not obligate HUD to fund the implementation of the program upon completion of the approved planning activities (unless the companion implementation grant was submitted as a combined application and funded in the implementation grant competition).

**§ 585.204 Locational considerations.**

HUD will not approve multiple applications for planning grants in the same jurisdiction unless it determines that the jurisdiction is sufficiently large to justify approval of more than one application.

**§ 585.205 Eligible activities.**

Planning grant activities to develop a Youthbuild program may include:

- (a) The undertaking of studies and research efforts to determine the feasibility and need for a Youthbuild program in a selected location including whether a proposed program can meet the education and training needs of young adults, aid in the expansion of affordable housing to meet the needs of the community, and achieve financial feasibility;
- (b) The formation and establishment of a consortium among Federal, State, or local training and education programs, service providers, housing programs and providers including but not limited to homeless providers, housing owners, developers, and other organizations necessary for the establishment of a Youthbuild program;
- (c) The preliminary identification and potential selection of housing for the Youthbuild program including an assessment of the type of housing



program to be used and the method by which program participants will have access to the housing project;

(d) The planning and identification of resources required for basic skills instruction and education, job training and job development, leadership and employment skills development, counseling, referral, and other related support services that will be provided as part of the Youthbuild program;

(e) The preparation of an application for an implementation grant.

(f) Preliminary architectural and engineering (A & E) work for the Youthbuild proposed housing including:

(1) The development of cost and time estimates associated with the amount of work to be done through new construction or the rehabilitation of existing housing;

(2) Technical studies to evaluate environmental problems and to determine whether mitigation is feasible on the potential site; and

(3) The identification and initiation of the permit process required to commence work on the selected site;

(g) The planning and development of multi-disciplinary educational and employment training curricula, leadership development training, counseling, and other supportive services and activities for the Youthbuild program including the identification and training of staff assigned to each program component;

(h) The identification and establishment of relationships with local unions, apprenticeship programs, housing owners, local employers and public or private community organizations for job training, development, and placement opportunities;

(i) *Administration.* Youthbuild funds for administrative costs may not exceed 15 percent of the total amount of Youthbuild program and project costs or such higher percentage as HUD determines is necessary to support capacity development by a private nonprofit organization.

#### **Subpart D—Youthbuild Implementation Grants**

##### **§ 585.301 Purpose.**

HUD will award Youthbuild implementation grants to eligible applicants for the purpose of carrying out Youthbuild programs in accordance with subtitle D of title IV of the National Affordable Housing Act. Applications will be selected in a national competition in accordance with the selection process described in the current NOFA.

##### **§ 585.302 Award limits.**

*Maximum awards.* The maximum award for a Youthbuild implementation grant will be defined in the NOFA for each competition and may vary by competition. HUD may for good cause approve a grant in a higher amount than the specified limit.

##### **§ 585.303 Grant term.**

Funds awarded for implementation grants are expected to be used within 30 months of the effective date of the implementation grant agreement.

##### **§ 585.304 Locational considerations.**

Each application for an implementation grant may only include activities to carry out one Youthbuild program, i.e., to start a new Youthbuild program or to fund new classes of Youthbuild participants for an existing program. The same applicant organization may submit more than one application in the current competition if the proposed programs are in different jurisdictions. HUD will not approve multiple applications for implementation grants in the same jurisdiction unless it determines that the jurisdiction is sufficiently large to justify approval of more than one application.

##### **§ 585.305 Eligible activities.**

Implementation grant activities to conduct a Youthbuild program may include:

(a) Acquisition of housing and related facilities to be used for the purposes of providing homeownership, residential rental housing, or transitional housing for the homeless and low- and very low-income persons and families;

(b) Architectural and engineering work associated with Youthbuild housing;

(c) Construction of housing and related facilities to be used for the purposes of providing homeownership, residential rental housing, or transitional housing for the homeless and low- and very low-income persons and families;

(d) Rehabilitation of housing and related facilities to be used for the purposes of providing homeownership, residential rental housing, or transitional housing for the homeless and low- and very low-income persons and families;

(e) Operating expenses and replacement reserves for the housing assisted in the Youthbuild program;

(f) Relocation payments and other assistance required to comply with § 585.308, legal fees, and construction management;

(g) Outreach and recruitment activities, emphasizing special outreach

efforts to be undertaken to recruit eligible young women (including young women with dependent children);

(h) Education and job training services and activities including work experience, basic skills instruction and remedial education, bilingual education; secondary education leading to the attainment of a high school diploma or its equivalent; counseling and assistance in attaining post-secondary education and required financial aid;

(i) Wages, benefits and need-based stipends provided to participants;

(j) Leadership development, counseling, support services, and development of employment skills;

(k) Defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out a Youthbuild program;

(l) Job placement (including entrepreneurial training and business development), counseling, and support services for a period not to exceed 12 months after completion of training to assist participants; and

(m) *Administration.* Youthbuild funds for administrative costs may not exceed 15 percent of the total amount of Youthbuild program and project costs or such higher percentage as HUD determines is necessary to support capacity development by a private nonprofit organization.

##### **§ 585.306 Designation of costs.**

The following budget items are to be considered training or other costs under the Youthbuild implementation grant and should not be considered costs associated with acquisition, rehabilitation, or new construction for the purposes of §§ 585.307, 585.309, 585.310, and 585.311.

(a) Trainees' tools and clothing.

(b) Participant stipends and wages.

(c) On-site trainee supervisors.

(d) Construction management.

(e) Relocation costs.

(f) Legal fees.

(g) Clearance and demolition.

##### **§ 585.307 Environmental procedures and standards.**

(a) *Environmental procedures.* Applicants are encouraged to select hazard-free and problem-free properties for their Youthbuild projects. Environmental procedures apply to HUD approval of implementation grants when the applicant proposes to use Youthbuild funds to cover any costs for the lease, acquisition, rehabilitation, or new construction of real property that is proposed for housing project development. Environmental procedures do not apply to HUD



approval of implementation grants when applicants propose to use their Youthbuild funds solely to cover any costs for classroom and/or on-the-job construction training and supportive services. For those applicants that propose to use their Youthbuild funds to cover any costs of the lease, acquisition, rehabilitation, or new construction of real property, the applicant shall submit all relevant environmental information in its application to support HUD decision-making in accordance with the following environmental procedures and standards.

(1) Before any Youthbuild implementation application that requests funds for acquisition, rehabilitation, or construction can be selected for funding, HUD shall determine whether any environmental thresholds are exceeded in accordance with 24 CFR part 50, which implements the National Environmental Policy Act (NEPA) and the related Federal environmental laws and authorities listed under 24 CFR 50.4.

(i) If HUD determines that one or more of the thresholds are exceeded, HUD shall conduct a compliance review of the issue and, if appropriate, establish mitigating measures that the applicant shall carry out for the property;

(ii) In performing its review, HUD may use previously issued environmental reviews prepared by local, State, or other Federal agencies for the proposed property;

(iii)(A) The application for the Youthbuild implementation grant shall provide HUD with:

(1) Applicant documentation for environmental threshold review; and

(2) Any previously issued environmental reviews prepared by local, State, or other Federal agencies for the proposed property.

(B) The applicant is encouraged to contact the local community development agency to obtain any previously issued environmental reviews for the proposed property as well as for other relevant information that can be used in the applicant documentation for the environmental threshold review. In using previous reviews by other sources, HUD must, however, conduct the environmental analysis and prepare the environmental review and be responsible for any required environmental findings.

(2) HUD reserves the right to disqualify any application where one or more environmental thresholds are exceeded if HUD determines that the compliance review cannot be conducted and satisfactorily completed within the HUD review period for applications.

(3) If Youthbuild funds are requested for acquisition, rehabilitation, or construction, applicants are prohibited from committing or expending State, local or other funds to undertake property acquisition (including lease), rehabilitation or construction under this program until notification of grant award.

(b) *Environmental thresholds:* HUD shall determine whether a NEPA environmental assessment is required. Also, HUD shall determine whether the proposed property triggers thresholds for the applicable Federal environmental laws and authorities listed under 24 CFR 50.4 as follows:

(1) For minor rehabilitation of a building and any property acquisition (including lease), Federal environmental laws and authorities may apply when the property is:

(i) Located within designated coastal barrier resources;

(ii) Contaminated by toxic chemicals or radioactive materials;

(iii) Located within a floodplain;

(iv) A building for which flood insurance protection is required;

(v) Located within a runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield; or

(vi) Listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, an historic district, or is a property whose area of potential effects includes a historic district or property.

(2) For major rehabilitation of a building and also for substantial improvement in floodplains, in addition to paragraphs (b)(1) (i) through (vi) of this section, other Federal environmental laws and authorities may apply when the property:

(i) Has significant impact to the human environment;

(ii) Is a project involving five or more dwelling units severely noise-impacted; or

(iii) Affects coastal zone management.

(3) For new construction, conversion or increase in dwelling unit density, in addition to paragraphs (b)(1) (i) through (vi) and paragraphs (b)(2) (i) through (iii) of this section, other Federal environmental laws and authorities may apply when the property:

(i) Is located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature;

(ii) Affects a sole source aquifer;

(iii) Affects endangered species; or

(iv) Is located within a designated wetland.

(c) *Qualified data sources.* The environmental threshold information

provided by applicants must be from qualified data sources. A qualified data source means any Federal, State, or local agency with expertise or experience in environmental protection (e.g., the local community development agency; the local planning agency; the State environmental protection agency; the State Historic Preservation Officer) or any other source qualified to provide reliable information on the particular property.

(d) *Minor rehabilitation* means proposed fixing and repairs:

(1) Whose estimated cost is less than 75 percent of the property value after completion;

(2) That does not involve changes in land use from residential to nonresidential, or from nonresidential to residential;

(3) That does not involve the demolition of one or more buildings, or parts of a building, containing the primary use served by the property; and

(4) That does not increase unit density more than 20 percent.

#### **§ 585.308 Relocation assistance and real property acquisition.**

The Youthbuild program is subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and implementing regulations at 49 CFR part 24. HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition, available from the Relocation and Real Estate Division at the address listed in this section, describes these policies and procedures. Any occupied property used in a Youthbuild program is subject to the URA regardless of the source of the property or construction funds. The URA requires recipients to provide relocation assistance to persons (families, individuals, businesses, and nonprofit organizations) that are displaced as a direct result of acquisition, rehabilitation or demolition for an assisted project. Property occupants who are not displaced also have certain rights. Therefore, if a proposed Youthbuild implementation program involves occupied property, before submitting the application the applicant should consult with staff of the Relocation and Real Estate Division, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7154, 451 Seventh Street, SW, Washington, DC 20410; telephone: (202) 708-0336. TDD: (202) 708-1455. Fax: (202) 708-1744. (These are not toll-free numbers.)

**§ 585.309 Project-related restrictions applicable to Youthbuild residential rental housing.**

Where the award of a Youthbuild implementation grant includes the eligible activities of acquisition, architectural and engineering fees, construction, rehabilitation, operating costs or replacement reserves for residential rental units, and where the costs for these activities are to be funded, in whole or in part, from the Youthbuild grant award, the recipient shall be required to comply with the following Youthbuild project-related restrictions for a period of not less than 10 years:

(a) *Occupancy by low- and very low-income families.* (1) For the 10 year period of the residential rental Youthbuild project, the recipient or rightful owner will be required to maintain at least a 90 percent level of occupancy for individuals and families with incomes less than 60 percent of the area median income, adjusted for family size—"the 90 percent category." The recipient or rightful owner must offer each available rental unit to the 60 percent of area median income group for an advertising period of not less than 90 days upon each vacancy occurrence throughout the 10 year period. Community-wide advertisements for tenants of this income group must be conducted.

(2) In order to maintain the financial stability of the project and to provide flexibility in averting long-term vacancies in the 90 percent category, the rightful owner is permitted, under certain circumstances described below, to execute temporary two year leases with individuals and families with incomes between 60 and 80 percent of the area median income. This temporary deviation is permitted when no qualifying tenant (with an income of 60 percent or less of median) leases the unit upon the end of the 90 day advertising period. The owner may then advertise the unit to individuals and families with incomes less than 80 percent of the area median income, adjusted for family size, for another advertisement period of 90 days. Temporary leases for tenants whose incomes are between 60 and 80 percent of the area median income (exclusive of the 10 percent allowance) shall be limited to two years. Temporary tenants are not covered by Youthbuild tenant protections regarding termination of tenancy [paragraph (b)(2) of this section], tenant selection plan [paragraph (b)(4) of this section] and tenant participation plan [paragraph (d) of this section].

(3) The remaining 10 percent of the units must be made available to and occupied by low-income families—"the 10 percent category." The income test must be conducted for both the 90 percent and 10 percent categories only at time of entry for each unit available for occupancy.

(b) *Tenant protections.* Upon submission of the implementation grant application, the applicant or rightful owner of the residential rental units covered under this paragraph shall certify to the following tenant protections:

(1) *Lease.* As part of the Youthbuild implementation grant application, the applicant or rightful owner of the property shall provide a model lease containing terms and conditions acceptable to HUD. The model lease shall become an addendum to the executed grant agreement and shall remain in force for a period of 10 years. The lease between a tenant and the owner of residential rental housing shall be for a period of not less than one year, unless otherwise mutually agreed to by the tenant and the owner, and shall contain such terms and conditions as HUD determines to be appropriate. Any change to a lease must be approved by HUD.

(2) *Termination of tenancy.* Upon submission of the implementation grant application, the applicant or other rightful owner of the property must certify that the following restrictions will be applied to all lease terminations initiated by the owner. The restrictions must state that an owner shall not terminate the tenancy or refuse to renew the lease of a tenant occupying a Youthbuild residential rental housing unit except for serious or repeated violations of the terms and conditions of the lease, or for violation of applicable Federal, State, or local laws, or for other good cause. Any termination or refusal to renew the lease must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action. With regard to leases for tenants in units controlled by public housing authorities, 24 CFR part 966 shall take precedence over this provision.

(3) *Maintenance and replacements.* Upon submission of the implementation grant application, the applicant or rightful owner of Youthbuild residential rental housing must certify that the premises will be maintained in compliance with all applicable housing quality standards and local code requirements for the 10 year period. HUD's Section 8 housing quality standards apply when no other public assistance is involved other than the

Youthbuild grant. In other cases, the applicable HUD or other Federal, State or local program guidelines shall apply.

(4) *Tenant selection.* The applicant or rightful owner of Youthbuild residential rental housing must develop and adopt a tenant selection plan containing selection policies and criteria that are consistent with HUD requirements. The tenant selection plan shall remain in force for the 10 year period. Upon submission of the implementation grant application, the applicant or owner of the property must certify that the plan complies with the following HUD requirements:

(i) The plan is consistent with the purpose of providing housing for homeless and very low-income families and individuals;

(ii) The plan is reasonably related to program eligibility and the applicant's or owner's ability to perform the obligations of the lease;

(iii) The plan gives reasonable consideration to the housing needs of families that would qualify for a preference under section 6(c)(4)(A) of the United States Housing Act of 1937;

(iv) The plan provides for the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and for the prompt notification in writing of any rejected applicant of the grounds for any rejection; and

(v) The plan acknowledges that a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 will not be refused tenancy because of the status of the prospective tenant as a holder of such assistance.

(c) *Limitation on rental payments.* Upon submission of the implementation grant application, the applicant or other rightful owner of Youthbuild residential rental housing project involved in a Youthbuild program shall certify that tenants in each rental unit shall be not required to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

(d) *Tenant participation plan.* The Youthbuild program shall require a tenant participation plan applicable to the rightful owner of Youthbuild residential rental housing, provided such owner is a nonprofit public or private organization. Upon submission of the implementation grant application, the nonprofit owner shall certify that the tenant participation plan is the plan to be adopted and followed for tenant participation in management decisions for the 10 year period.

(e) *Limitations on profit.* Youthbuild residential rental housing projects

meeting the requirements of this section shall be restricted from producing profit in excess of the following limitations:

(1) *Monthly rental limitation.* The aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on any equity investment of the project owner.

(2) *Profit limitations on partners.* A nonprofit organization receiving Youthbuild assistance for a residential rental housing project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purposes of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive:

(i) Not more than a 6 percent return on their equity investment from project operations; and

(ii) Upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

(f) *Restrictions on conveyance.* Conveyance restrictions apply to Youthbuild residential rental housing project(s) meeting the requirements of this section. Ownership of the property may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner for the balance of the 10 year period.

(g) *Ten year restriction.* The restrictions listed in paragraphs (a) through (f) of this section shall remain in force for a period of not less than 10 years after construction completion and issuance of an occupancy permit for all Youthbuild residential rental housing projects receiving Youthbuild assistance.

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**§ 585.310 Project-related restrictions applicable to Youthbuild transitional housing for the homeless.**

Where the award of a Youthbuild implementation grant includes the eligible activities of acquisition, architectural and engineering fees, construction, rehabilitation, operating costs or replacement reserves of transitional housing units, and where the costs for these activities are funded, in whole or in part, with Youthbuild grant funds, the housing project shall be

required to comply with the following Youthbuild project-related restrictions:

(a) *Limitations on profit.* (1) Youthbuild transitional housing projects meeting the requirements of this section shall be restricted from producing profit in excess of the following limitations:

(i) *Monthly rental limitation.* The aggregate monthly rental for each Youthbuild project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a six (6) percent return on any equity investment of the project owner.

(ii) *Profit limitations on partners.* A nonprofit organization receiving Youthbuild assistance for a housing project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purposes of providing housing for low- and moderate-income families.

(2) Profit-motivated partners in a nonprofit partnership may receive:

(i) Not more than a six (6) percent return on their equity investment from project operations; and

(ii) Upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

(b) *Restrictions on conveyance.* Conveyance restrictions apply to Youthbuild transitional housing projects meeting the requirements of this section. Ownership of the property may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner for the balance of the 10 year period.

(c) *Program requirements for Transitional housing.* (1) Youthbuild transitional housing projects meeting the requirements of this section shall adhere to the requirements regarding service delivery, housing standards and rent limitations applicable to comparable housing receiving assistance under the Transitional Housing component of the Supportive Housing Program (title IV of the Stewart B. McKinney Homeless Assistance Act).

(2) The Secretary may waive these requirements to permit the conversion of a Youthbuild transitional housing project to a permanent housing project only if such housing complies with the Youthbuild project-related restrictions for residential rental housing projects found in § 585.309.

(d) *Ten Year Restriction.* The restrictions listed in paragraphs A

through C of this section shall remain in force for a period of not less than 10 years after construction completion and issuance of an occupancy permit for a Youthbuild transitional housing project receiving Youthbuild assistance.

**§ 585.311 Project-related restrictions applicable to Youthbuild homeownership housing.**

Where the award of a Youthbuild implementation grant includes the eligible activities of acquisition, architectural and engineering fees, construction, or rehabilitation of homeownership housing, and where the costs for these activities are to be funded, in whole or in part, with Youthbuild grant funds, the housing project shall be required to comply with the following Youthbuild project-related restrictions:

(a) *Program compliance.* Each homeownership project meeting the requirements of this section shall comply with the requirements of the HOPE II or HOPE III programs authorized under subtitles B or C respectively of title IV of the National Affordable Housing Act.

(b) *Restrictions on conveyance.* Conveyance restrictions apply to Youthbuild homeownership housing projects meeting the requirements of this part. Ownership of the property may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner for the balance of the 10 year period.

(c) *Ten Year Restriction.* The restrictions listed in paragraphs (a) and (b) of this section shall remain in force for a period of not less than 10 years after construction completion and issuance of an occupancy permit for Youthbuild homeownership housing projects meeting the requirements of this part.

**§ 585.312 Wages, labor standards, and nondiscrimination.**

Sections 142 (wages and benefits), 143 (labor standards), and 167 (nondiscrimination) of the Job Training Partnership Act shall apply to Youthbuild programs as if the programs were conducted under the Job Training Partnership Act. This provision may not be construed to prevent Youthbuild recipients from using funds from non-Federal sources to increase wages and benefits under such programs, if appropriate.

**§ 585.313 Labor standards.**

(a) *Trainees.* Davis-Bacon prevailing wage rate requirements are not applicable to trainees on housing

projects or in training programs assisted by Youthbuild grant funds, regardless of whether other Federal assistance is involved. However, where the trainees' performance of public and Indian housing work is subject to HUD-determined prevailing wage rates under Section 12 of the United States Housing Act of 1937, trainees must be paid HUD-determined wage rates; as a matter of policy, the wage rates determined by HUD to apply to Youthbuild trainees will be the trainee wage rates rather than journeyman rates.

(b) *Laborers and mechanics other than Youthbuild Trainees.* (1) All laborers and mechanics (other than Youthbuild trainees) employed by contractors or subcontractors in any construction, alteration or repair, including painting and decorating, of housing that is assisted by a Youthbuild grant shall be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a through 276a-5). The employment of such laborers and mechanics on assisted housing shall be subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 333). Where these requirements are applicable, recipients, sponsors, owners, contractors and subcontractors must comply with all related Department of Labor and HUD rules, regulations and requirements.

(2) The labor standards requirements in paragraph (b)(1) of this section do not apply where a Youthbuild grant is provided solely for classroom and/or on-the-job training and supportive services for Youthbuild trainees, and the grant does not include costs for housing project development involving acquisition (including lease), rehabilitation or new construction of real properties; however, if other Federal programs provide assistance to the housing project, labor standards apply to laborers and mechanics other than Youthbuild trainees to the extent required by the other Federal programs. Applicants need to review applicable Federal regulations to determine which relevant requirements apply to their individual situations.

#### Subpart E—Administration

##### § 585.401 Recordkeeping by recipients.

(a) Each recipient of a planning or implementation Youthbuild grant award must keep records that will facilitate an effective audit to determine compliance with program requirements and that fully disclose:

(1) The amount and disposition by the recipient of the planning or implementation Youthbuild grants received, including sufficient records that document the reasonableness, accuracy and necessity of each expenditure;

(2) The amount and disposition of proceeds, if any, from financing obtained in connection with the Youthbuild program, e.g., housing sales to eligible low-income families, property sales to other public or private entities;

(3) The total cost from all sources of funding for the Youthbuild program including all educational, training, counseling, placement, and housing activities and services;

(4) The amount and nature of any other assistance, including cash, property, services, materials, in-kind contributions or other items contributed as a condition of receiving an implementation grant;

(5) Any other proceeds received for, or otherwise used in connection with, the Youthbuild program.

(6) *Participant information.* The recipient must maintain records on each Youthbuild participant, including such information as age, high school drop out status, income level, gender, employment status, and racial and ethnic characteristics.

(7) *Housing information.* If Youthbuild grant funds are used for acquisition, architectural and engineering fees, construction, rehabilitation, operating costs or replacement reserves for housing used in a Youthbuild program, the recipient must maintain records on family size, income, and racial and ethnic characteristics of families renting or purchasing Youthbuild properties.

(8) *Relocation Assistance and Real Property Acquisition.* The recipient shall maintain records sufficient to demonstrate compliance with relocation assistance and real property acquisition requirements, as described in Chapter 6 of HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. See § 585.308.

(b) Implementation grant recipients must submit reports pursuant to Section 3 regulations at 24 CFR part 135.

(c) *Access by HUD and the Comptroller General.* For purposes of audit, examination, monitoring, and evaluation, each recipient must give HUD (including any duly authorized representatives and the Inspector General) and the Comptroller General of the United States (and any duly authorized representatives) access to any books, documents, papers, and

records of the recipient that are pertinent to assistance received.

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##### § 585.402 Grant agreement.

(a) *General.* The recipient will provide education and job training in accordance with the requirements of this part as incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through such actions as may be appropriate, including repayment of funds that have already been disbursed to the recipient.

##### § 585.403 Reporting requirements.

(a) *Quarterly Progress Reports.* Each recipient of a Youthbuild grant must submit a report on a quarterly basis. The form and substance of the quarterly progress report will be provided to recipients. The Performance Evaluation Report noted in paragraph (b) of this section will constitute the final Quarterly Report.

(b) *Performance Evaluation Report.* Each recipient of a Youthbuild grant must submit a Performance Evaluation Report on activities undertaken and completed in accordance with the grant agreement. The form and substance of the Performance Evaluation Report shall be provided to recipients.

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##### § 585.404 Program changes.

(a) There are three basic types of changes that recipients may wish to make to their programs:

(1) Grant Agreement amendments.

(2) Material changes, which include, but are not limited to changes in housing sites, changes in significant participating parties, and changes in approved activities. All material changes require HUD approval.

(3) Self-implementing program changes, which may include changes in recipient staffing and content of curriculum. All self-implementing changes require documentation in the recipient's files.

(b) Approval for Grant Agreement Amendments and material changes is contingent upon the application ranking remaining high enough after the approved change to have been competitively selected for funding in the year the application was selected.

##### § 585.405 Obligation and deobligation of funds.

(a) *Obligation of funds.* When HUD and the applicant execute a grant

agreement, funds are obligated to carry out approved activities consistent with §§ 585.205 or 585.305 of this part and in accordance with the grant agreement.

(b) *Increases.* After the initial obligation of funds, HUD will not make revisions to increase the amount obligated.

(c) *Deobligation.* (1) HUD may deobligate all or parts of grants if the grant amounts are not expended within the term of the grant or if there is a condition of default as defined in the grant agreement.

(2) HUD may award deobligated funds to applications previously submitted in response to the most recently published NOFA, and in accordance with subpart B of this part.

#### **§ 585.406 Primarily religious organizations.**

(a) *Provision of assistance to primarily religious organizations.* (1) HUD will provide Youthbuild assistance to a recipient that is a primarily religious organization if it agrees to provide housing, educational and training activities or supportive services in a manner that is free from religious influences and in accordance with the following principles:

(i) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give employment preference to persons on the basis of religion;

(ii) It will not discriminate against any person applying for Youthbuild activities, supportive services or housing on the basis of religion and will not limit such activities or services or give preference to persons on the basis of religion; and

(iii) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of housing, education, training activities, or support services.

(2) HUD will provide Youthbuild assistance to a recipient that is a primarily religious organization if the assistance will not be used to construct or rehabilitate a property to be owned by the recipient, except as described in paragraph (b) of this section.

(b) *Rehabilitation and new construction of structures owned by a primarily religious organization.* Grant funds may be used to rehabilitate or newly construct a structure owned by a primarily religious organization if the following conditions are met:

(1) The structure (or portion of the structure) that is to be rehabilitated or newly constructed with HUD assistance

has been leased to a recipient that is an existing or newly established wholly secular organization which may be established by the primarily religious organization under the provision of paragraph (c) of this section;

(2) The HUD assistance is provided to the wholly secular organization (and not the primarily religious organization) to make the improvements;

(3) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion;

(4) The lease payments paid to the primarily religious organization do not exceed the fair market rent of the structure before any rehabilitation was completed;

(5) The portion of the costs of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the primarily religious organization;

(6) The primarily religious organization agrees that, if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the secular organization, and the secular organization will remit the amount to HUD.

(c) *Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.*

(1) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The wholly secular organization may be eligible to receive other forms of assistance available under this part.

(i) The wholly secular organization must agree to provide housing and support services in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (a) of this section.

(ii) The wholly secular organization may enter into a contract with the primarily religious organization to operate the housing or to provide support services. In such a case, the primarily religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (a) of this section.

(iii) The rehabilitation or new construction grants are subject to the requirements of paragraph (a) of this section.

(2) HUD will not require the primarily religious organization to establish the

wholly secular organization before the selection of its application. In such a case, the primarily religious organization may apply on behalf of the wholly secular organization. The application will be reviewed on the basis of the primarily religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the wholly secular organization after formation. Access to the housing site is demonstrated if the primarily religious organization provides a commitment to transfer control of the site to the wholly secular organization after its formation. If such an application is selected for funding, the obligation of funds will be conditioned upon the establishment of a wholly secular organization that meets the definition of private nonprofit organization in § 585.4.

#### **Subpart F—Applicability of Other Federal Requirements**

##### **§ 585.501 Application of OMB Circulars.**

(a) The policies, guidelines and requirements of OMB Circular Nos. A-87 (Cost Principles Applicable to Grants, Contracts and other Agreements with State and Local Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) apply to the award, acceptance and use of assistance under the program by applicable entities, and to the remedies for non-compliance, except where inconsistent with the provisions of NAHA, other Federal statutes or this part. 24 CFR part 84 (Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations), OMB Circular A-122 (Cost Principles Applicable to Grants, Contracts and other Agreements with Nonprofit Institutions), and, as applicable, OMB Circular A-21 (Cost Principles for Educational Institutions) apply to the acceptance and use of assistance by covered organizations, except where inconsistent with the provisions of NAHA, other Federal statutes or this part. Recipients are also subject to the audit requirements of 24 CFR part 44 (Audit Requirements for State and Local Governments) and 24 CFR part 45 (Audit Requirements for Institutions of Higher Education and other Nonprofit Institutions), as applicable. HUD may perform or require additional audits as it finds necessary or appropriate.

(b) Copies of OMB Circulars may be obtained from E.O.P. Publications, Room 2200, New Executive Office

Building, Washington, DC 20503, telephone (202) 395-7332. (This is not a toll-free number.) There is a limit of two free copies.

#### **§ 585.502 Certifications.**

In addition to the standard assurances of compliance with Federal rules and OMB Circulars contained in applications for Federal grant assistance, applicants must also make the following certifications:

(a) *Consolidated Plan.* (1) *Applicants that are States or units of general local government.* The applicant must have a HUD-approved Consolidated Plan in accordance with 24 CFR part 91 for the current year and must submit a certification that the proposed activities are consistent with the HUD-approved Consolidated Plan.

(2) *Applicants that are not States or units of general local government.* The applicant must submit a certification by the jurisdiction or jurisdictions in which the proposed program will be located that the applicant's proposed activities are consistent with the jurisdiction's current HUD-approved Consolidated Plan. A required certification must be made by the unit of general local government if it is required to have, or has, a Consolidated Plan. Otherwise the certification may be made by the State.

(3) The Insular Areas of Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands are not required to have a Consolidated Plan or to make a Consolidate Plan certification. An application by an Indian tribe or other applicant for a Youthbuild program that will be located on a reservation of an Indian tribe does not require a certification by the tribe or State. However, where an Indian tribe or an Indian Housing Authority (IHA) is the applicant for a Youthbuild program that will not be located on a reservation, the requirement for a certification by the jurisdiction or jurisdictions in which the Youthbuild program will be located under the preceding paragraph applies.

(b) *Fair Housing and Equal Opportunity.* A certification that the applicant is in compliance and will continue to comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing, or, in the case of a Youthbuild application from an Indian tribe or an Indian Housing Authority (IHA), a certification that the applicant will comply with the Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*), section 504 of

the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

(c) *Drug-free workplace.* A certification that the applicant will comply with the requirements of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701) and HUD's implementing regulations at 24 CFR part 24, subpart F.

(d) *Employment opportunities.* A certification that the applicant will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 17017), as implemented by 24 CFR part 135. Section 3 requires that employment and other economic opportunities generated by HUD assisted housing and community development programs shall, to the greatest extent feasible, be directed toward section 3 residents and business concerns.

(e) *Anti-lobbying.* In accordance with the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The Byrd Amendment) and the implementing regulations at 24 CFR part 87, applicants for and recipients of assistance exceeding \$100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. Applicants and recipients must also disclose where nonappropriated funds have been spent or committed for lobbying activities if those activities would be prohibited if paid with appropriated funds. Substantial monetary penalties may be imposed for failure to file the required certification or disclosure.

(f) *Relocation Assistance and Real Property Acquisition.* A certification that the applicant will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR part 24 and HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. See § 585.308.

(g) *Use of Housing.* A certification that the housing to be produced in conjunction with the Youthbuild program is to be provided for the homeless and low- and very low-income families.

(h) *Lead-Based Paint.* A certification that the applicant will comply with the requirements of the Lead-Based Paint Poisoning Prevention Act and implementing regulations at 24 CFR part 35.

(i) *State and Local Standards.* A certification that all educational programs and activities supported with funds provided under this subtitle shall

be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

(j) *Labor Standards.* A certification that the applicant and related parties will comply with the provisions of the Davis-Bacon Act, as amended (40 U.S.C. 276a through 276a-5), the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 333), and HUD Handbook 1344.1, Revision 1, Federal Labor Standards in Housing and Community Development Programs, as applicable, available from the Office of Assistant to the Secretary for Labor Relations, room 7118, 451 Seventh Street, SW., Washington, DC 20410; Telephone (202) 708-0370; FAX, (202) 619-8022; TDD, (202) 708-1455. (These are not toll-free numbers).

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#### **§ 585.503 Conflict of interest.**

(a) (1) In addition to the conflict of interest requirements in 24 CFR parts 84 and 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or cooperating entity named in the application and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter, except that a resident of an eligible property may acquire an ownership interest.

(2) *Exception.* HUD may grant an exception to the exclusion in paragraph (a)(1) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Youthbuild program. An exception may be considered only after the applicant or recipient has provided a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict, a description of how the public disclosure was made, and an opinion of the applicant's or recipient's attorney that the interest for which the exception is sought would not violate State or local law. In determining whether to

grant a requested exception, HUD will consider the cumulative effect of the following factors, where applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the Youthbuild program that would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class intended to be the beneficiaries of the activity and the exception will permit such person to receive generally the same interests or

benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process, with respect to the specific activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (a)(2) of this section;

(vi) Whether undue hardship will result either to the applicant, recipient, or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

(b) [Reserved]

**§ 585.504 Use of debarred, suspended, or ineligible contractors.**

The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

Dated: February 7, 1995.

**Andrew Cuomo,**

*Assistant Secretary for Community Planning and Development.*

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